

**THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

|  |   |                          |
|--|---|--------------------------|
| IN RE: JUDY WEATHERFORD,               | ) | CASE NO.: 03-15184-JW    |
|  | ) |                          |
|  | ) | Chapter 13               |
| Debtor.                                | ) |                          |
|  | ) |                          |
|  | ) |                          |
| JUDY WEATHERFORD,                      | ) |                          |
|  | ) |                          |
|  | ) |                          |
| Plaintiff,                             | ) |                          |
|  | ) | ADV. PRO. NO. 08-_____JW |
| -vs-                                   | ) |                          |
|  | ) |                          |
| TIMMARK, a South Carolina Partnership, | ) |                          |
| TIMOTHY SCHWARTZ, MARK CAREY,          | ) |                          |
| CAREY HOLDINGS, INC., AND              | ) |                          |
| NATIONWIDE DEVELOPMENTS, INC.,         | ) |                          |
|  | ) |                          |
| Defendants.                            | ) |                          |
|  | ) |                          |

**AFFIDAVIT OF JUDY  
WEATHERFORD**

Now comes Judy Weatherford who, first being duly sworn, deposes and says:

I am the debtor in the above-captioned Chapter 13 bankruptcy case, and if given the opportunity, I would testify as follows:

1. In January of 2003, I was employed part-time by my brother, David Weatherford, who owned a business called Finishing Touches Framing and Siding (hereinafter Finishing Touches ).<sup>1</sup>

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<sup>1</sup> On February 13, 2003, David registered "Finishing Touches Framing and Siding" with the Secretary of State as a Limited Liability Company, and, unbeknownst to me at the time, listed me as Registered Agent and my residence, 460 Parris Island Gateway, Port Royal, as the address of the LLC.

2. At his instruction, I filed a complaint in the Magistrate's Court for Beaufort County contending that Nationwide Developments, Timothy Schwartz, and Mark Carey, owed money to Finishing Touches for materials associated with a construction job.

3. I filed my Chapter 13 bankruptcy Petition on December 5, 2003.

4. At both the time I filed the Magistrate's Court Action and the time I filed my bankruptcy Petition, I resided at 460 Parris Island Gateway, Beaufort.

5. Although I moved out of 460 Parris Island Gateway in July of 2004, David continued receiving Finishing Touches mail there, as he had since even before he formed the LLC.<sup>2</sup>

6. Other than the initial filing, I had nothing to do with the case in Magistrate's Court and knew nothing about it until September of 2005, when David called me to tell me about a letter he received from Larry Weidner, Esq., a lawyer in Beaufort, and telling me that I "have to attend a hearing" about the Nationwide Developments case.

7. I originally went to Mr. Weidner *about* Timothy Schwartz and was inquiring as to our rights concerning the money Mr. Schwartz owed us; two days after that meeting, Mr. Weidner told me over the telephone that he was actually *representing* Mr. Schwartz.

8. Mr. Weidner was unavailable, so I asked his secretary to inform Mr. Weidner that I was in a Chapter 13 bankruptcy, and that Mr. Weidner should call me or my attorney, Mr. Fairbanks; I also gave her my case number to give to Mr. Weidner.

9. Approximately a week later, having heard nothing from Mr. Weidner, I went to his office; he was not in, and so I wrote down my name and telephone number, my bankruptcy case number, and Mr. Fairbanks's name and telephone number, and gave

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<sup>2</sup> At no time did I exercise control over or read Finishing Touches mail.

them, along with a copy of my bankruptcy court filing, to Mr. Weidner's secretary, requesting that she give them to Mr. Weidner.

10. In early October, 2005, about two weeks after the event described in ¶9 (I still had heard nothing from Mr. Weidner), David called me to tell me that the case had been dismissed.

11. Since I had been very concerned, I went to the Magistrate's Court to find out if what David had told me was correct; I was assured by Court personnel that the case was over and I need do nothing.<sup>3</sup>

12. I assumed that Mr. Weidner, learning of my bankruptcy, had dismissed the action, but obviously he had not done so.

13. Then, in March of 2006, I received a telephone call from the Beaufort County Sheriff's Office informing me that that "Timmark" and Timothy Schwartz had a judgment against me for over \$36,000 and that since my bankruptcy had been dismissed, I would have to pay it or my house would be sold.

14. My bankruptcy case had been dismissed about a week prior to the Sheriff's call; the dismissal was the result of miscommunication wherein a payment made had not been applied to my account.

15. Having believed that the case was over, I experienced shock and panic; I attempted to call my bankruptcy lawyer, but was informed he was out of the country; In my anxious state, I decided he couldn't have helped me anyway, since the bankruptcy had been dismissed.

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<sup>3</sup> I did not know, nor could I possibly have guessed, that the case had been transferred to the Circuit Court.

16. Mr. Schwartz and Mr. Weidner both called me and told me that I would have to come up with \$7,500 a week for the next four weeks or my house would be put up for sale.

17. I asked a deputy at the Sheriff's Department why Mr. Schwartz was harassing me, since the financial dispute was with David, and the deputy replied that he knew I had a house and that David owned no property, and so he was looking to me to satisfy the judgment.

18. I begged my family for help, and between them and my fiancé I was able to borrow \$15,000, which I paid to the Sheriff's Department; I was told that the payment would forestall sale of my house, which at the time was all I cared about.

19. The entire experience was extremely stressful for me, and I sought help through a mental health clinic, where I received medication to combat my depression and anxiety; even so, the symptoms wouldn't go away: I could not sleep; I was subject to crying fits; my children thought I was going to have a nervous breakdown; they were worried about both me and the house, as this was also their home; embarrassed, depressed, and afraid to go out in public, I dropped out socially and stayed in the house.

20. When Mr. Fairbanks returned and I told him what had happened, he immediately took steps to reinstate my bankruptcy (which I didn't know was possible), and the telephone calls from Mr. Schwartz and from the Sheriff's Department ceased.

21. Despite the reinstatement of my bankruptcy case and Mr. Fairbanks's assurances, and his telling me that he believed there was a violation of the bankruptcy law, the fear continued: in my precarious mental state I feared that they were going to figure out another way around the protection of the Bankruptcy Court; I just wanted me

and my family to be left alone, as I had nothing to do with any of this; I only made \$6,800 for the year with David, and now I was being sued for \$36,000 just for filing some papers for him.

22. More than a year went by; then in December, 2007, I received another call from the Beaufort County Sheriff's Office telling me that I still owed another \$15,000 on the judgment and that they were going to restart the process of selling my house.

23. I called Mr. Fairbanks, who was aghast to learn that I had already paid \$15,000 a year earlier, in December, 2006.

24. He immediately telephoned the Sheriff's Department, and after that, there were no more calls.

25. I am finished with my bankruptcy payments, but the judgment, on a debt that was never mine in the first place, was not included in my bankruptcy petition, and I remain terrified that another way will be found for them to take my house.

26. Even though Mr. Fairbanks has assured me that what the Defendants have done is in violation of federal bankruptcy law, my symptoms: sleeplessness, depression, anxiety, panic attacks, persist; Christmas, usually a cheerful time, was ruined.

27. I was even ready to let the \$15,000 go if I could have peace, but now I see that that won't happen unless I do something about it.

28. Mr. Schwartz and Mr. Weidner both had personal knowledge of my bankruptcy proceeding, because I informed them. It may have been dismissed when I gave the money to the Sheriff's Department, but it certainly was active during all the time they were filing papers and taking other measures to obtain a judgment against me in a case of whose existence I was not aware.

29. They also did nothing to have the judgment expunged after they were told—  
on two occasions—by the Sheriff's Department that I was in bankruptcy, and my fear  
persists even now.

**Further Affiant Sayeth Nought.**

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Judy Weatherford

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS \_\_\_\_ DAY OF APRIL, 2008.

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NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: